

CORRECTIONS IMPACT STATEMENT

SESSION: 22RS BILL # HB 48 GA . BR # 61 DOC ID #: HB004810.100 - 61 - XXXX

BILL SPONSOR(S): Rep. P. Pratt, DJ Johnson, C. Massey AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to crimes and punishments.

SUMMARY OF LEGISLATION: Amend KRS 519.010 to add definition of "emergency response"; amend KRS 519.040 to increase the penalties for falsely reporting an incident that results in an emergency response; create a new section of KRS Chapter 41 to provide for a civil cause of action for damages arising from the false reporting of an incident; amend KRS 134.127 to conform.

AMENDMENT: Retain original provisions; redefine "emergency response"; and remove enhanced penalties.

This bill amendment committee substitute is expected to:

Have the following Corrections impact Have no Corrections impact

- | | |
|---|--|
| <input type="checkbox"/> Creates new crime(s) | <input type="checkbox"/> Repeals existing crime(s) |
| <input checked="" type="checkbox"/> Increases penalty for existing crime(s) | <input type="checkbox"/> Decreases penalty for existing crime(s) |
| <input type="checkbox"/> Increases incarceration | <input type="checkbox"/> Decreases incarceration |
| <input type="checkbox"/> Reduces inmate/offender services | <input type="checkbox"/> Increases inmate/offender services |
| <input type="checkbox"/> Increases staff time or positions | <input type="checkbox"/> Reduces staff time or positions |
| <input type="checkbox"/> Changes elements of offense for existing crime(s) | |
| <input type="checkbox"/> Otherwise impacts incarceration (Explain) . | |
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STATE IMPACT: Class A, B, & C felonies are based on an average daily prison rate of \$97.60. Community Custody Class C and most Class D felons are housed in one of seventy-four (74) full service or regional jails for up to five (5) years. Department of Corrections' cost to incarcerate a felony inmate in a jail is \$35.43 per day, which includes \$31.34 per diem, medical costs, & central office administrative costs (substance abuse treatment not included).*

Projected Impact: NONE MINIMAL to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

The proposed legislation increases the penalty for falsely reporting an incident that requires an emergency response. A definition of emergency response is added to KRS 519.010 and includes response by law enforcement or emergency medical, fire, or rescue services.

Falsely Reporting an Incident is currently a Class A misdemeanor.

KRS 519.040 would be amended to include false reports that result in an emergency response. A penalty range is created:

- Falsely reporting an incident remains a Class A misdemeanor.
- False reports that result in an emergency response are elevated to a Class D felony.
- False reports with an emergency response which results in a physical injury are elevated to a Class C felony.
- False reports with an emergency response which results in serious physical injury or death are elevated to a Class B felony.

Filing information and restitution penalties are included, with restitution to be considered as a civil judgement. Civil actions are added to KRS 411 and KRS 134.127 is amended to conform.

Department of Corrections has zero (0) inmates and thirty-three (33) individuals on supervision with convictions for KRS 519.040.

AOC reports ninety-four (94) convictions in FY20 and 120 convictions in FY21 for Falsely Reporting an Incident.

It is not possible to know how many of these offenses involved an emergency response or incurred injuries, which if prosecuted under the proposed legislation could qualify for an elevated penalty.

Class B offenders incarcerated under the legislation would be housed at a state prison facility. If not eligible for community custody, Class C offenders would also be housed at a state prison. For offenders housed at a prison, incarceration costs are \$97.60 per day. Community custody Class C and Class D offenders would serve a sentence of incarceration at a local detention center at a lower cost for the Commonwealth.

It is not known how many felony convictions would be incurred under the legislation. The legislation includes a penalty range with higher offenses, incurring longer sentence lengths and significantly increasing incarceration costs.

Cost to Incarcerate

A Class B Felony sentence is 10 to 20 years.	10 Class B Felons cost KY \$3,562,391.76 to \$7,124,783.52
1 Class B Felon costs KY \$356,239.18 to \$712,478.35	100 Class B Felons cost KY \$35,623,917.60 to \$71,247,835.20
A Class C Felony sentence is 5 to 10 years.	10 Class C Felons cost KY \$1,781,195.88 to \$3,562,391.76
1 Class C Felon costs KY \$178,119.59 to \$356,239.18	100 Class C Felons cost KY \$17,811,958.80 to \$35,623,917.60
A Class D Felony sentence is 1 to 5 years.	10 Class D Felons cost KY \$129,318.61 to \$646,593.03
1 Class D Felon costs KY \$12,931.86 to \$64,659.30	100 Class D Felons cost KY \$1,293,186.06 to \$6,465,930.31

LOCAL IMPACT: Local governments are responsible for the cost of incarcerating individuals charged with Class A or B misdemeanors and felony defendants until disposition of the case. The estimated impact will be based on the \$35.43 cost to incarcerate for the Department of Corrections, including \$31.34 per diem and medical that DOC pays jails to house felony offenders. This cost to incarcerate may not be the actual housing cost for the jail. Kentucky jails report their actual cost to incarcerate is closer to an average of \$45 per day.*

Projected Impact: NONE MINIMAL to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

Class C offenders under this legislation may be eligible to serve their sentences at a county detention center if qualifying for community custody based on length of sentence remaining and custody classification. These inmates, in addition to Class D inmates, would serve their sentence in a county jail at a cost to the state of \$35.43 per day, with \$31.34 daily reimbursement to the local detention center.

It could be assumed that some of the current misdemeanor convictions under KRS 519.040 could, under the legislation, be prosecuted as a felony.

Provision of a felony penalty for Falsely Reporting an Incident provides additional revenue for jails through state inmate per diem and some amount of cost relief for the county as misdemeanors are under the jurisdiction and cost of the county

It is not possible to estimate the number of felony convictions which could be incurred under KRS 519.040; however, the statutory change may produce a number of additional felony offenders.

Cost to Incarcerate

A Class A misdemeanor is 90 days to 1 year in jail.	10 Class A misdemeanants: \$31,886.78 to \$129,318.61
1 Class A misdemeanant: \$3,188.68 to \$12,931.86	100 Class A misdemeanants: \$318,867.80 to \$1,293,186.06

PROJECTED IMPACT FROM AMENDMENTS:

NONE MINIMAL to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

House Committee Substitute:

The Committee Substitute removes the proposed higher offense penalty range for false reports which result in an emergency response, lowering the legislation's fiscal impact on incarceration.

Under the House Committee Substitute, KRS 519.040's falsely reporting an incident remains as a Class A misdemeanor while falsely reporting an occurrence that results in an emergency response is established as a Class D felony. This removes the Class C and Class B felony penalty range that was proposed in the original legislation.

The Committee Substitute separates definitions for emergency response and first responder. The emergency response requires two (2) or more first responders and the response jeopardizes or could jeopardize public safety. It also amends civil actions to reference only those false reports which result in an emergency response.


**All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

The following offices contributed to this Corrections Impact Statement:

Dept. of Corrections Dept. of Kentucky State Police Administrative Office of the Courts Parole Board Other

NOTE: Consideration should be given to the cumulative impact of all bills that increase the felon population, lengthens the term or incarceration, or impose new obligations on state or local governments.

APPROVED BY:



Chief of Staff, Kentucky Department of Corrections

2/14/2022

Date